

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION AT DAYTON**

UNITED STATES OF AMERICA,

Plaintiff,

:

Case No. 3:04-cr-052

Also Case No. 3:10-cv-073

-vs-

District Judge Thomas M. Rose

Magistrate Judge Michael R. Merz

:

RANDY WHITE,

Defendant.

ORDER ADOPTING REPORT AND RECOMMENDATIONS

The Court has reviewed the Report and Recommendations of United States Magistrate Judge Michael R. Merz (Doc. No. 91), to whom this case was referred pursuant to 28 U.S.C. §636(b), and noting that no objections have been filed thereto, despite an extension of time to do so, and that the time for filing such objections as extended under Fed. R. Civ. P. 72(b) expired on April 30, 2010, hereby ADOPTS said Report and Recommendations.

It is therefore ORDERED that Defendant's Motion to Vacate (Doc. No. 89) be dismissed with prejudice. Because reasonable jurists would not disagree with this conclusion, Defendant is denied leave to appeal *in forma pauperis* and any requested certificate of appealability.

May 10, 2010

**s/THOMAS M. ROSE*

Thomas M. Rose

United States District Judge